

The State of New Hampshire

**Before the
Site Evaluation Committee
Docket No. 2015-06**

**Application of Northern Pass, LLC
For a Certificate of Site and Facility**

**Post-Hearing Memorandum
of CS-GROUP I NORTH
The Abutters and Non-Abutters
of Pittsburg, Clarksville and Stewartstown, New Hampshire**

The Abutters and Non-Abutters of Pittsburg, Clarksville and Stewartstown, New Hampshire,
through their spokesperson, Bradley J. Thompson, of 599 Noyes Road, Stewartstown,
file the following post-hearing memorandum.

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I. POSITION STATEMENT

1. The current application needs many time-consuming revisions according to State of New Hampshire regulatory authorities, including DOT and DHR, and according to the Applicants' own admissions. It contains contradictions and misleading information as exposed by the intervenors and their witnesses. Due to the incomplete and constantly evolving nature of the Applicants' project plans, the Intervenor has not had the opportunity to effectively cross-examine the final siting details; and they have thus have been deprived of the right to due process.
2. This intervenor group strongly feels that the Site Evaluation Committee is compelled to deny this application because the project will unduly interfere with the orderly development of the North Country of New Hampshire.
3. And, the project will have negative effects on the aesthetics, cultural landscapes, and the natural environment of New Hampshire.
4. And, the project will have a negative effect on the health and safety of our citizens.
5. And, the project will not serve the public interest.
6. And, the project's owners cannot guarantee that our personal, municipal, and/or state property will be returned to us in as good, or better condition, than when the project began.

II. SUMMARY OF THE APPLICATION

7. The Northern Pass project is a 192-mile construction route of overhead and underground transmission lines (two separate cables) traveling from the Canadian Border at Hall's Stream in Pittsburg, to the existing Deerfield station.
8. Of concern to this intervenor group is the Northern section of the project from Pittsburg to Stewartstown.
9. At full capacity, the two transmission lines would transport 1090 megawatts of electricity into the New England Grid through our region of Coos County where there are no high voltage transmission towers and a delightful absence of heavy commercial/industrial land uses.
10. If it is ever built, the Northern section of the route (Pittsburg, Clarksville, Stewartstown) would change all that. This project if inflicted on our three towns would involve 16 miles of transmission corridor with approximately eight miles erected above ground on 70+/- jumbled-up lattice and monopole towers carrying heavy HVDC conductors strung from large insulators hung high above the average tree line in clear cut corridors at least 120 feet wide. The remaining eight miles would be buried under extremely narrow back country mostly dirt roads using plans that have not been reviewed by the proper licensing authorities. Burial is proposed under state highway Route 145, or within the Right of Way (the State designated scenic and cultural highway known as the Moose Path Trail) and a few miles of Bear Rock Road maintained by the state. About five miles is proposed to be buried under local dirt/gravel roads maintained by Clarksville and Stewartstown. Burial would involve at least seven Horizontal Directional Drillings. (Applicants Project Map Exhibits)

11. The Northern Section of the route (Pittsburg, Clarksville, Stewartstown), would also involve 22 splice vaults. Splice vaults are assumed to be produced and installed in two-sections—top and bottom of equal sizes and weights. Each half is 34 feet long, 10 feet wide, and 4 feet high, with 8-inch thick walls with reinforced rebar: each half weighs approximately 31.7 tons, or 63,000 pounds. While there is confusion on the point, the Applicants have stated repeatedly that these local roads will have to be closed for major time periods during multiple construction seasons.
12. The Northern Section of the route would also be hosting large, highly visible HVDC substation-like facilities known as Transition Stations #1, #2, #3 and #4.

III. UNREASONABLE ADVERSE EFFECTS ON HEALTH, SAFETY, AND PUBLIC WELFARE: TWO PLUS YEARS INFRINGING ON ORDERLY DEVELOPMENT DUE TO ROAD CLOSURES

13. Although there have been many contradictory statements made by the Applicants' spokesperson, by the Applicants' attorneys, through the Applicants' publications and letters, by the Applicants' witnesses—specifically the construction panel, and by the Council for the Public's witnesses—their construction panel, relative to road closures in Clarksville and Stewartstown, we contend that extensive road closures would have to occur at many locations along the approximate 8 miles of underground cable burial, due to 7 HDD drillings and 22 splice vault installations.
14. Martin Murray, spokesperson for Northern Pass, insisted that there will be no road closures, and that McAllaster's road will always be open. "Murray said McAllaster had been under the

false impression that roads would be closed, but now understands they will not be closed.”

Mr. McAllaster’s farm business, and major product, MILK, would be threatened if the milk truck and the grain truck were not able to make scheduled pick-ups of milk, and delivery of grain, respectfully. (Martin Murray interview by Nancy West *InDepthNH.org*, October 21, 2017: *Video’s North Country 10 Testify on Northern Pass’ Impact*)

15. Attorney Needleman, on cross-examination of the CFP’s construction panel, insisted that there would be enough room to keep the road open, and states that it is the Applicants’ position, “that it will not close any of those roads.” (Day 51, PM, page 47, lines 18-23)

16. Attorney Needleman, cross-examining Mr. Bascom, states that the Applicants have committed to giving homeowners and businesses access to their driveways at all times. (Day 51, PM, page 50, lines 5-15)

17. Mr. Needleman, referring to Rod McAllaster’s dairy farm, says, “The road is used to move a dairy farmer’s milk to market with tractor trailer trucks.” Attorney Needleman stated, “The Applicant contends it will not close any of those roads.” (CS#130, *InDepthNH.org*, *Testimony: Northern Pass Likely to Take Longer than Estimated; Road Closure Battle Continues*, October 24, 2017)

18. Attorney Walker in his cross examination of Bradley Thompson, pointed out that the DOT, in its Exception Requests, would not permit road closures. He states, “So again, the roads will not be closed.” (Day 54, PM, page 139, lines 8-15)

19. A December 2, 2016 *Forward NH Plan* letter from the Northern Pass Project Team, was mailed to landowners in Stewartstown and Clarksville, stating that during construction on dirt roads in Stewartstown and Clarksville, Northern Pass anticipated the need for temporary road

closures. (NPT Discovery-NH DOT Submittal 11-30-16, Bear Rock Road Landowner Letter; CS#131 and Day 54, PM, page 85, lines 19-21)

20. Similar December 2, 2016 *Forward NH Plan* letters from Jerry Fortier, Project Director, were mailed to the Selectman of Clarksville and to the Selectmen of Stewartstown, stating that during construction on dirt roads in Clarksville, and in Stewartstown, Northern Pass anticipated the need for temporary road closures. (NPT Discovery-NH DOT Submittal 11-30-16: Stewartstown Road Closure Letter; Clarksville Road Closure Letter)
21. Council for the Public's photograph of a house at the corner of Creampoke Road and North Hill Road, showed a projected work area that would extend to within 6 feet of a house. The work area would then extend down to a brook, at which there would be a deep pipe-jack under the brook. This work would easily require two to three months of road closure on North Hill Road. (CFP Exhibit #130)
22. A CS-Group I North's photograph showed a truck taking up most of the roadway near the bridge on Creampoke Road. This bridge is a red-flagged, weight-limited bridge. This bridge would be the major access to the jobsites on Old County Road and North Hill Road. The question is, would this bridge be able to withstand two years of constant, heavy vehicle traffic? This activity would definitely indicate the necessity of road closures in this area of Stewartstown. (CS#129)
23. A CS-Group I North's photograph of a crane, the size of which would be necessary to lift the splice vaults into the pits, would indicate that one lane of the road could not possibly remain open. (CS#135)

24. A sketch that was developed detailed the need for a minimum 40' x by 40' landing area, necessary as a pad for a crane, with counter-weights, large and heavy enough to lift and set one-half of a concrete splice vault. This would absolutely require road closures wherever the town road Right of Way is three rods, i.e., 49.5 feet. (CS #136, CS #137, CS #138, and Day 50, PM, page 106, lines 1-24)
25. The first three splice vaults coming off of North Hill Road onto Bear Rock Road, are located at 249+00, 269+00, 289+00. All have a R.O.W. of 50 feet, i.e. 3-rod wide sections of Bear Rock Road, per Attorney Nix's Pre-Filed testimony. This would be verified when the Applicants resubmit their new application to DOT. (CS#68, Nix Supplemental PFT dated 3/21/2017, pages 18 & 19 of 24; Applicants' permit package to DOT, dated 11/30/16, sheets NRTHC 129, NRTHC 131, NRTHC 133)
26. Road closures of town dirt roads would require up to two weeks at each splice vault installation location; one week to install the pit, a second week to remove the cover and perform the two splices and then replace the cover. (Day 43, AM, page 10, lines 6-10 and CS#24, Kayser PFT, page 31 of 34, lines 25-27)
27. Mr. Nathan Scott testified that at many splice vaults along Old County Road, in Clarksville, roads will mostly likely be closed. (Day 6, PM, page 69, lines 18-24).
28. Mr. Scott admitted to the necessity of road closures at random locations where both trench and splice pit locations occur. (Day 6, PM, page 81, lines 2-5; page 82, lines 16-20; page 83, lines 4-7)
29. Ms. Frazier testified that road closures will occur at the 7.5 miles of underground construction. (Day 6, PM, page 103, lines 9-11)

30. Mr. Sam Johnson testified that the town roads, the 7.5- mile section of Old County Road, North Hill Road, and Bear Rock Road, are going to be subject to road closures. (Day 42, AM, page 97, lines 15-22)
31. On and off road closures along Bear Rock Road, North Hill Road, and Old County Road would close the Cohos Trail, and the main North-South artery for the Ride the Wilds ATV Trails. (CS 2; CS 66; CS 80; Day 6, PM, page 69, lines 18-24)
32. These road closures would all lead to lengthy detours.
33. A detour around Old Country Road, as outlined by Ms. Frazier, would be 4.5 miles and require a 9-minute drive. (Applicants' Application to DOT, dated November 30, 2016, Page NRTHTCP-6)
34. The detour around North Hill Road, as outlined by Ms. Frazier, would be six miles and require an 11-minute drive. (Applicants' Application to DOT, dated November 30, 2016, Page NRTHTCP-8)
35. The detour around Bear Rock Road, as outlined by Ms. Frazier, would be 20.5 miles and require a 35- minute drive. (Applicants' Application to DOT, dated November 30, 2016, Page NRTHTCP-9)
36. If there were an emergency on Bear Rock Road, and the use of the detour is required, if this emergency vehicle were to meet another vehicle on the unmaintained mile of detour, one of these vehicles would have to back up, up to one-half mile. This unmaintained section of Bear Rock Road is closed during the winter, and remains closed until well into June of each year, due to extreme mud conditions.

37. Therefore, the concern for the health and safety of residents of these town roads, and the employees of the construction companies involved with the project, is drastically increased, and of great concern, due to these lengthy detours.

**IV. HEAT GIVEN OFF FROM UNDERGROUND TRANSMISSION CABLES
WOULD CREATE AN ADVERSE EFFECT ON CLARKSVILLE &
STEWARTSTOWN'S DIRT ROADS**

38. There is great concern that the town dirt roads of Stewartstown and Clarksville will not be left in the same as, or better condition, than pre- project, due to the heat in the buried cables under our roads.

39. The direct burial of the transmission cables and buried splice vaults are planned to be installed underneath the paved or graveled sections of these town dirt roads in Clarksville and Stewartstown. (Day 6, PM, page 131, lines 13-16.)

40. The ABB report states that 70 degrees C. (158 degrees F.) of heat will dissipate from the two transmission cables buried under the town dirt roads in Stewartstown and Clarksville, during peak usage. (APP Exhibit#139, page 19 of 24/APP #62940)

41. The ABB report request was issued because NH DOT voiced a concern: Will the heat dissipated from these transmission cables cause an adverse effect on the surface conditions of these town roads during the winter season? (Day 8, PM, page 23, line 3, and CS#33/Attachment A/page 1, 1st paragraph)

42. And this same report states that this heat will dissipate upward to the road surface, because the road surface is at a cooler temperature. (Day 8, PM, page 24, lines 18-20, and CS#33/Attachment A/ page 1, 2nd paragraph)
43. In response to Mr. Pappas' question, "Am I correct that in about a 3-foot to 5-foot area outside the cables, the cables give off heat and essentially warm that area?", Mr. Kayser's response was, "That sounds in the ballpark." (Day 6, PM, page 138, lines 6-11.)
44. Two 8-inch scheduled 40 conduits will be buried in a 4' 6" deep, excavated ditch. (NPT Application to DOT, dated 11/30/2016, page NRTHC502)
45. These two 8-inch conduits will be backfilled by approximately 16 inches of FTB (Fluidized Thermal Backfill). Then, a 6" thick protective concrete slab is poured, followed by more FTB to the base of the road. (NPT Application to DOT, dated 11/30/2016, page NRTHC502)
46. The two- 3" diameter transmission cables are then installed in the 8" conduits. These cables run from one splice vault to the next. (NPT Application to DOT, dated 11/30/2016, page NRTHC502)
47. When installed, each splice vault would be buried to a minimum depth of 10 feet. Each vault is 8 feet tall, hence, there would be at least two feet of dirt covering the top of each vault. (NPT Application to DOT, dated 11/30/2016, page NRTHC502)
48. The top of the 8" conduit when installed would be at approximately 3'3" below final restored road grade. (Day 6, PM, page 141, lines 17-23)
49. Rusty Bascom's Pre-Filed testimony's technical report (*Electrical Consulting Engineers*), states that heat would dissipate away from the 3" diameter transmission cables from 3 to 5 feet. (CS#34 and Kayser statement, Day 6, PM, page 38, lines 4-11)

50. Logically, that heat would dissipate to the surface of the town dirt roads of Clarksville and Stewartstown (i.e., the cable is buried 3'3" deep and heat dissipates upward 5 feet).
51. Initially, Nathan Scott stated that heat dissipating from underground cables would not occur, but gave no back-up as to why. (Day 6, PM, page 139, lines 12-15)
52. Mr. Nathan Scott then later testified that most of the heat would dissipate upwards. (Day 11, PM, page 218, line 11.)
53. Mr. Kenneth Bowes, NPT's Vice President of Engineering at Eversource, states, "I don't disagree that the cable in the direct vicinity of cables, it will change the depth of the frost {sic}." (Day 8, PM, page 30, lines 4-6)
54. This would create continuous frozen and unfrozen sections of paved and dirt roads, depending on what is— or is not— buried underneath.
55. When a paved or dirt road freezes, it expands, especially if said road had been poorly constructed— an 'unbuilt' road. The road would lift where frozen, and remain level where not frozen. If the road is not involved in any change due to construction, then the whole road lifts when frozen, i.e., the road would lift uniformly.
56. While one area of a town road, unaffected by heat from the cables, might have 4 feet of frost and lift 6 inches, another neighboring area of the road might have six inches of frost, due to the heat from the cables beneath it, and would only lift one and a half inches. Hence, the road surface heights would vary drastically, making snowplowing by the road agent impossible. This is compounded by the fact that the road surface at a buried splice vault would probably have no frost, due to the heat dissipating upward from the vault, which is

only 24 inches below the surface of the road. (Committee EX#22—Sketch/Frost Line; Day 10, PM, page 141, lines 7-24; page 142, lines 1-6)

57. Mr. George Sansoucy, in his Pre-Filed Direct Testimony, states that there has been no logical explanation by the company (Eversource) or a satisfactory explanation by its witnesses as to how to dissipate the heat from the electric lines to the surrounding soil, without creating uneven thaw in the soil and the road base, for which heavy trucks and equipment will likely break through and cause potential damage and harm the electric line, the equipment itself, and the road. (PFT, Sansoucy, page 12 of 32, lines 7-12)

58. The magnitude of this frost heaving would be compounded by the fact that our town roads are quote, “unbuilt roads.” They were never built properly, they were built by adding gravel to the top surface as required. In many locations, there are no drainage ditches. Bill Oldenburg refers to the “unbuilt roads “—also called “no roads” — in his cross-examination of the Applicants’ construction panel. (Committee Ex#21, 264 Easton Road; Day 10, PM, page 121, line 24; page 122, lines 1-24)

59. The Applicants’ six-person construction panel testified that the town dirt roads of Clarksville and Stewartstown, upon completion of the project, would be returned in as good or better condition than before the project started. (Day 6, PM, page 131, lines 17-21)

60. It was suggested that a mock-up be constructed, to prove that our town roads would not be damaged due to the heat dissipated from the transmission cables. This mock-up would involve burying a splice vault in the road, and running 500 feet of buried conduit away from the vault in one direction. Also involved would be the installation of an HDD drilling, in the opposite direction. This system would then have heat installed at 158 degrees F., which

would randomly be turned on and off, mimicking different degrees of current in the cables. This mock-up would be operational for one full winter's season—November to May— and be documented by each town's road agent, and an Eversource representative. The Applicants' construction panel showed no intent to consider, or interest in creating, such a mock-up. (CS#14, Page 7, lines 8-19)

61. Mr. Kenneth Bowes admitted a lack of experience burying underground transmission lines in a climate like northern New Hampshire. (Day 6, PM, page 140, lines 11-12)
62. Yet, Mr. Bowes soon after testified that there would be no adverse impact from this heat on the dirt roads because of his operating experience. (Day 6, PM, page 142, lines 22-24)
63. The Applicants' six-member construction panel—Kenneth Bowes, Nathan Scott, John Kayser, Sam Johnson, Lynne Frazier, Derek Bradstreet—was also asked to provide the location of an existing underground project in dirt roads, with buried 320kv DC current cables, in a geographical area similar to northern New Hampshire. Council for the Public's three-member construction panel—Rusty Bascom, Adam Zysk and David Taylor— was also asked if they were aware of such a project buried in dirt roads in a northern New Hampshire climate. Not one of these nine experts could provide a location. If such a location did exist, wouldn't one think Mr. Bowes would have searched endlessly for it? It's now believed that this construction technique cannot be found because it will not work. The Applicants' promise that such a technique would allow town dirt roads to remain in as good or better condition than pre-construction is as hollow as the obvious fact that no such construction in cold climate dirt roads has ever been safely undertaken.

64. An equally important question is, “Who will maintain these town dirt roads after construction is complete?” The SEC? NH DOT? Eversource? All seem to want nothing to do with the maintenance of the town dirt roads of Clarksville and Stewartstown once construction is complete. (Day 43, PM, page 109, lines 23-24; page 110, lines 1-14).
65. Yet, the Applicant is perfectly happy leaving the towns with that burden after they seize the roads and irrevocably alter their base, dimensions, make-up and usability by the public.
66. Mr. Kenneth Bowes testified that the DOT should take responsibility, because the towns of Stewartstown and Clarksville lack expertise and the resources. (Day 43, PM, page 9, lines 12-24; page 10, lines 1-13)
67. Mr. Bowes statements are insulting. Who knows these town roads better than the towns and their road agents? The towns’ Selectboards and their designated road agents have managed the towns’ roads since the earliest of colonial times. They know every ditch, culvert, curve and protruding tree root along these roads. The Applicants complain that Clarksville and Stewartstown won’t sign various self-serving MOU’s drafted by the Applicants, that would permit their project to start digging in town roads. But that puts the shoe on the wrong foot! It is the Applicants who have refused to follow state law under RSA 231:160 and its subdivision. For over four years, the Applicants have steadfastly refused to file the required application to use the town roads for its facility. The Applicants claim they don’t have to. Unless and until the Applicants follow state law, it is the Clarksville-Stewartstown Intervenor’s position that the towns should be very wary of signing any MOUs or side agreements drafted by the Applicants that effectively go around the provisions of the RSAs.

68. As will be shown in Section IX of this Memorandum, RSAs 231:160 and 231:161 the legislature has specified that the town selectmen are the only proper authorities who can permit or license a utility to use local town roads.

69. At a minimum, these facts indicate that there is a monumental question as to how Northern Pass and their contractors would be able to return the dirt roads of Clarksville and Stewartstown to as good or better condition after construction due to the heat dissipated from the transmission cables. And an even more monumental question is, “Who will be responsible for the maintenance of these roads for the next forty years?”

**V. LOCATION AND CONSTRUCTION OF TRANSITION STATION #4 WOULD
HAVE AN UNREASONABLE ADVERSE EFFECT ON AESTHETICS AND THE
ORDERLY DEVELOPMENT OF THE REGION**

70. The selected location of Transition Station #4 was a very poor decision for many reasons.
(CS#14, page 5, lines 1-14)

71. Mr. Nathan Scott testified that, “The placement of the Transition Station is vital to the orientation and the approach of the underground cable and overhead line and is selected to maintain the proper alignment for both the overhead and underground installation, as well as to limit environmental impacts.” (CS#25, page 8 of 10, lines 4-6)

72. Transition Station #4 will be highly visible from neighboring properties around Bear Rock Valley. (CS#14, page 5, line 4).

73. Transition Station #4 will be highly visible to local traffic driving on Heath Road and Bear Rock Road. The front 8' high fence, with three strands of barbed wire, is 70 feet from the Heath Road Right of Way. (CS#14, page 5, line 5).
74. Transition Station #4 will be highly visible to hikers on the *Cohos Trail*, which travels the lengths of Heath Road and Bear Rock Road, to McAllaster Road. (CS#149).
75. Transition Station #4 will be highly visible from *the Ride the Wilds* trails, which includes all of Heath Road, Noyes Road, and Bear Rock Road. Three to five hundred ATVs travel these roads on a busy weekend day, enjoying the natural beauty and unobstructed views of our Great North Woods. (CS#3 Video; CS#80)
76. Mr. Jacob Tinus testified that in order to avoid impacts to water quality, the slope of the land and soil types are important. (APP EX#21, page 00396, lines 23-25)
77. The slope of the land and the soil types at Transition Station #4, could not be more adverse to maintaining water quality. (APP EX 072, Stormwater Reports, Transition Station #4, Soil Survey Report, Station 4, Stewartstown, page 844, APP39979, APP39980)
78. The 3.14 acre of area of Transition Station #4, has an elevation change from Heath Road to the top of the ledge-cut of 84 feet. (CS#38, and Project Application plans of Transition Station #4, dated 10/1/15)
79. The Normandeau Associates Soil Survey Report for Transition Station #4, states that the interior of the site has moderately steep slopes of 15% to 25%. A small area of steep 25% to 45% slopes occurs within the north-central portion of the site. (APP EX 072, Stormwater Reports, Transition Station #4, Soil Survey Report, Station 4, Stewartstown, page 844, APP39979, APP39980)

80. This Normandeau Associates report also states that the dominant feature of the site is the presence of bedrock. Twenty-two different test pits established exposed ledge and ledge at depths of 10" to 60" at the 3.14-acre site. Geotechnical drilling reports show 22 borings, observing ledge at 10" to 5' below the surface. Hence, 66,000 cubic yards of ledge clearly exists at the site of Transition Station #4— ledge that would be dislodged by blasting and hauled off by truck. (APP EX 072, Stormwater Reports, Transition Station #4, Soil Survey Report, Station 4, Stewartstown, page 844, APP39979, APP39980)
81. This large outcropping of bedrock and boulders has historically been referred to as the Bear Rock Monument, and gives the valley its name— the origin of Bear Rock. (PFT, Petrofsky, Historic, 11.15.16 p.3; lines 14-23, CS 66).
82. Per NH DOT Best Management Practices, any blasting project removing in excess of 5,000 cubic yards would require water quality monitoring; blasting plans demonstrating compliance with a blasting ordinance; and imposing reasonable fees associated with a third-party review. (CS#5, page 2, DES Item #2.)
83. The challenges to construct Transition Station #4 are numerous, including the massive amount of blasting necessary to remove approximately 66,000 cubic yards of ledge and 11,000 cubic yards of top soil, stumps, etc." (Day 54, PM, page 100, lines 7-11)
84. The Applicants calculated the amount of ledge to be blasted, but not removed— cut and fill— from Transition Station #4, to be 30,000 cubic yards. This calculation was incorrect. After this number was questioned by Mr. Thompson, there was a 16-minute recess for the Applicants' construction panel to review the plans for Transition Station #4. The panel returned, and Mr. Sam Johnson admitted he was incorrect; "I mixed up 2 Transition Stations

in this case. For the most part, this will be an all cut and no-fill Transition Station.” (Day#8, PM, page 64, lines 1-8)

85. When Mr. Johnson was asked, “Would you accept the fact that this fill will create a rectangular pile, 20 feet high, 220 long, by 220 feet wide?” He responded, “Sure, I’ll take your word for it at this point.” (Day#8, PM, page 64, lines 14-20)

86. When Mr. Thompson asked about the number of trucks required to haul off this ledge, Mr. Johnson offered, “I will say that our calculations have it more in the order of 5,000 trucks, depending on the size of trucks that you choose. It’s still significant.” (Day#8, PM, page 65, 18-21)

87. CFP’s construction panel, Zysk and Taylor, testified to 77,000 cubic yards of total of materials to be removed—ledge, topsoil, stumps, loam, etc. (Day 54, PM, page 100, line 7 to 11)

88. An estimated 5,000 to 7,500 truckloads of ledge would have to be hauled off the site of Transition Station #4, to some still-unknown location. This would require travel on Heath Road and Bear Rock Road, both fragile, narrow, “unbuilt roads.” (A tri-axle dump truck will hold between 10 and 15 cubic yards of unprocessed ledge.)

89. Transition Station #4’s location at the corner of Bear Rock Road and Heath Road defies logic. It’s cost due to ledge removal by blasting, extreme road damage due to removal of ledge and other materials via heavy dump trucks, the aesthetic damage, the noise from blasting using 125,000 pounds of explosives, the damage to water sources—the glacial springs of Bear Rock Beverages, and the nearby west branch of the Mohawk River— all send a resounding message: The present location does not make sense.

**VI. BLASTING AT TRANSITION STATION #4 WOULD HAVE AN ADVERSE
EFFECT ON THE ORDERLY DEVELOPMENT OF *BEAR ROCK BEVERAGES*,
GLACIAL SPRINGS WATER**

90. Bear Rock Beverages is a system of three water wells, located at 599 Noyes Road, on the Thompson property, producing clear glacial spring water. (CS#1, page 1, line 21-22)
91. These three wells are within 90 feet of each other. (CS#1, PAGE 1, LINE 31)
92. The wells are 460 – 480 feet from the center of Bear Rock Road, where the buried cables are proposed to be laid, and 1100 feet to the center of Transition Station #4. (CS#1, page 1, line 32)
93. These three wells are presently free-flowing, releasing 41,000 gallons of pristine glacial water on to the ground, every 24 hours. (CS#1, page 1, line 34)
94. The water quality of these three wells has been tested several times since 2008, by an independent testing company, Seacoast Analytical Services. These glacial spring water tests show the water quality to be near or at perfection in all categories. (CS#7)
95. This glacial water flows under pressure from distant water tables on Holden Hill and Lovering Mountain, filtering through millions of cubic feet of glacial deposits (silt, sand, rock). (CS#1, page 38, 39)
96. Bear Rock Road and Transition Station #4 are both uphill and in direct line with Holden Hill. (CS#1, page 2, lines 1, 2)
97. The concern is that the massive amount of blasting necessary to remove 66,000 cubic yards of ledge at Transition Station #4, and likely some ledge at the cable burial on Bear Rock Road, will cause irreparable damage, and discontinuation of water flow to these glacial spring wells.

Once lost these veins of water can never be recovered or replaced. (CS#1, page 2, lines 32-36)

98. A rule of thumb is that plus or minus 2.0 pounds of dynamite will be required for every cubic yard of ledge blasted. Based on 66,000 cubic yards of ledge removal, a minimum of 125,000 pounds of explosives would be necessary. (Day 54, PM, page 101, lines 3-6)

99. Mr. Jacob Tinus testified that wells and other water supplies have been identified; construction impacts to any water lines within the project corridor will be avoided. None of the development sites are located within source or well head protection areas. (Applicants EX #21, page 00402, lines 6-8)

100. Mr. Tinus also testified that the project's impact on surface water will be minimized both by designing the route to avoid impacts where practical and by incorporating Best Management Practices and other measures based on DES rules, guidance documents, experience with similar projects, and discussions with DES staff. (App EX #21, App page 00402, lines 28-30)

101. Furthermore, Mr. Tinus testified that the project will not cause degradation of outstanding resource waters (ORW) or cause further degradation of waters by pollutants causing the existing impairment. He claimed that overall, temporary and permanent impacts are very low due to careful consideration of natural resources during the planning, design, and engineering phases. (App EX #21, App page 00403, lines 1-4)

102. Possible pollutants and contaminants include spillage of fuels, shaking loose of silt, sand and other by-products, and the introduction of ammonium nitrate, a by-product of blasting, both as dust in the atmosphere and as a coating on the blasted ledge. Exposure in high

concentrations would potentially cause serious health problems. (CS#5, Day 54, PM, page 102, lines 6-8)

103. Finally, Mr. Tinus testified that the footprints of Transition Stations have been located within the sites to lessen impacts to resource areas. Site drainage at these transition station sites has been designed to maintain existing flow patterns as much as possible, to minimize potential effects on wetlands and surface water hydrology. Did Mr. Tinus realize, that when the ammonium nitrate dust is washed off the blasted ledge, it will travel directly into the west branch of the Mohawk River? (App Ex #21, App page 00404, lines 508)

104. Mr. Jacob Tinus, it appears, was not aware of the glacial spring water wells on the Thompson property, that about Transition Station #4, nor did he properly evaluate the massive exposure caused by 125,000 pounds of explosives. (App Ex#21, see the complete PFT of App pages 00389-00404)

105. Maintaining the high quality of our glacial spring water is critical. We need to protect our pristine glacial water and all water resources here in New Hampshire, not mitigate damages. As Brendon Kernan, of DES, states, "Ensuring safe and adequate drinking water supplies requires maintaining the quality and availability of present and future water supply sources, because in the long run it is less expensive and more protective of public health to prevent contamination than it is to treat water to meet health standards, and it is less expensive to use existing sources than it is to develop new ones." (CS#5, *DES Drinking Water Source Protection Program*)

**VII. AESTHETICS, NATURAL RESOURCES, CULTURAL LANDSCAPES. THE
APPLICANTS HAVE FAILED TO MEET THE BURDEN OF PROOF THAT
THERE WILL BE NO UNREASONABLE ADVERSE IMPACTS TO
AESTHETICS, AND NATURAL RESOURCES INCLUDING WETLANDS**

Aesthetics

106. Available survey data emphasizes aesthetics as the single most important factor when it comes to user expectations and the tourist draw to the Great North Woods/North Country. A North Country Chamber of Commerce survey indicated that 64% of visitors came to the North Country for sightseeing, while 59% came for scenic drives. Given the High value visitors place on aesthetic uses, and the impacts described, it is obvious that the expectations of users would be unreasonably adversely impacted by widespread aesthetic impacts such as those delivered in the Applicants' proposed plans. *(CS 49), (CS 65, p.4, lines 18-27)*
107. CFP provided evidence from several other surveys broadly indicating the degradation of scenic quality is perceived negatively, and has a negative impact on future use and would reduce the number of future visits, particularly in the case of transmission structures and lines. *(CFP 138 TJ Boyle PFT, 12/30/16 Section 4.2, pp.82-87)*
108. Aesthetic impact in the 40 miles of new ROW would be adverse and widespread as evidenced by the number of resources impacted, and the number of towers visible from each resource. Adverse impacts occur along the length of this new right of way and include:
- a. Scenic roads and highways:
 - i. Daniel Webster Scenic Highway (Rt. 3), visibility in several locations, including near Connecticut River crossing *(CS 50, p. 1)*

- ii. Moose Path Scenic Highway (Rt. 145, up to 20 towers visible), (*CS 50, p. 3*)
 - iii. Diamond Pond Road, (no state designation), (as many as 40 towers) (*CS 50, p. 6*)
- b. Great Ponds (State Designated)
 - i. Big Diamond Pond (towers visible), (*SPNF 69, Dodson PFT, Appx. C, p.8*)
 - ii. Little Diamond Pond (8 towers visible, (*SPNF 69, Dodson, p. 3, lines 19-21*))
 - iii. Nathan Pond (up to 10 towers visible), (*CS 50 p.7*)
 - iv. Mud Pond, (*SPNF 69, Dodson PFT, Appx. C, p.8*)
 - v. Big Dummer Pond (up to 40 towers visible), (*CS 50, p. 14*)
- c. State Parks
 - i. Coleman State Park (line cross over road approaching park entrance and visible from Little Diamond) (*SPNF 69, Dodson PFT, Appx. C, p.7*)
- d. Trails
 - i. Cohos Trail (line travels alongside trail and crosses over it), (*CS 2, pp.2-3, annotated maps*).
 - ii. Ride the Wilds ATV Trails (multiple crossings), (*CS 80, map*)
- e. National Cultural Landscapes
 - i. Harvey Swell National Cultural Landscape (20-40 towers visible across much of the Landscape), (*CS 50, p.6*)
 - ii. Indian Stream National Cultural Landscape. (*SPNF 69, Dodson, Appx. C, p. 5*)

109. Several professional witnesses and intervenors evaluated these resources as having an adverse/unreasonable aesthetic impact including:

a. Dodson:

Scenic Roads and Highways

- i. Daniel Webster Scenic Highway (Rt. 3): Medium-High Visual Impact
- ii. Moose Path Scenic Highway (Rt. 145): Medium-High Visual Impact
- iii. Diamond Pond Road: High Visual Impact

Great Ponds (State Designated)

- iv. Little Diamond Pond: High Visual Impact
- v. Big Dummer Pond: High Visual Impact
(*SPNF 69, Dodson, appx. F, p. 2*)

b. TJ Boyle (CFP)

Scenic Roads and Highways

- i. Connecticut River Scenic Byway (Rt. 3): Unreasonable Impact
- ii. Moose Path Scenic Highway (Rt. 145/26): High/Unreasonable Impact
- iii. Diamond Pond Road: Unreasonable Impact

Great Ponds (State Designated)

- iv. Little Diamond Pond: Unreasonable Impact
- v. Big Dummer Pond: Unreasonable Impact
- vi. Little Dummer Pond: Unreasonable Impact

State Parks

- vii. Coleman State Park Entrance: Unreasonable Impact
(CFP 138, TJ Boyle PFT, 12/30/16 Table 21, pp.99-109)

c. O'Donnell (CFP)

- i. Unreasonable impact on Cultural Landscapes and historical sites
(CFP 140 O'Donnell PFT, 11/15/16, p. 2)

110. In its letter of 12/21/2017 to the SEC, DHR found the following Historical Sites to have been adversely affected, including but not exclusive to: Dummer Pond Sporting Club, Dummer Pond, (NH DHR Letter to SEC on Effects Findings, Dec. 21, 2017, Table 1, p.2); Harvey Swell Cultural Landscape (Table 1, p. 4); and Rt. 3 Tourism Development Cultural Landscape (Table 1, p.4).

111. In some cases, resources were examined by neither DHR nor the Applicants because they did not fall into strict categories. For example, while the Indian Stream Cultural Landscape was recommended for further study, it fell outside the Section 106 APE, and has not been definitively analyzed further, even though the Indian Stream historic site (as defined by

historic texts and the Pittsburg Historic Society) extends all the way to the Vermont border between Halls Stream and the Connecticut River where the Applicants propose erecting 20 transmission towers right through the Indian Stream Republic. (CS 88, 89 and 90)

112. Moreover, Indian Stream is well within the SEC's 10-mile view shed area. Bear Rock was not analyzed because it is a natural feature, yet too small to constitute a cultural landscape on its own. DHR used eligibility for the NRHP as a primary criterion for evaluating resources, regardless of aesthetic quality. Thus, the fact that there is no judgement by DHR should not be taken as a statement that there is no impact. (*App. Ex. 211, Cultural Landscape Report Great North Woods Volume I, pp.72-73, 90, 107*)

113. The Applicants failed to evaluate areas without official designations. By overlooking scenic areas that lacked official designations, the Applicants failed to properly evaluate them. These areas include the recommended Cultural Landscapes of Indian Stream, and Harvey Swell (the "exception views over a large scenic landscape" referenced in Dodson. Evaluation of some of these resources as part of the Section 106 process likely will not be complete by the time the SEC reaches its decision. (SPNF 69, Dodson, Appx. C p.6-8; and App. Ex. 211, Cultural Landscape Report, Great North Woods Vol. 1, pp. 37, 69,71, 73, 90, 99-104)

114. CFP further analyzed this shortcoming, and attempted to compensate. (CFP 138 TJ Boyle PFT, 12/30/16, Section 4.1.2.2, p.70)

115. The Applicants cherry-picked sites for visual simulations. For example, along Rt. 145 (Moose Path Scenic Highway), the Applicants chose to present visual simulations in an area where 5-7 towers would be visible, not an area up the hill where 11-20 would be visible. The

Applicants chose six sites to do visual simulations along this scenic highway. Four were in areas adjacent to trees. Photos 3 and 4 are on either side of (but do not address), the area of greatest visual impact. Comparing Dewan's work to the PAF visual assessment Dewan seems to have not simulated the area with the greatest line visibility viewed from the Moose Path Scenic Highway. The Applicants didn't simulate the views with the highest risk of unreasonable adverse impact given the higher number of towers potentially visible. A similar dynamic occurred in Stark, where the Applicants analyzed the Aesthetic Impact from the East side of Christine Lake where few towers would be visible, as opposed to the West side, where the PAF visual analysis indicates upwards of 20 towers would be visible. The burden of proof rests on the Applicants. (SEC Rule Site 202.19-20), and the Applicants seems to have conspicuously chosen to avoid analyzing areas of greatest potential impact.

(CS 50, pp. 3,8) (Applicants Exhibit 1, Appendix 17, Dewan Visual Impact Assessment, Dated Oct. 14, 2015 pp. 114, 182, 195)

116. Intervenors and witnesses have identified that the Applicants failed to adequately mitigate adverse visual impacts. The following are examples of the shortcomings and practicable avoidance/mitigation for resources that the Applicants failed to take:

a. Dodson:

i. Little Diamond Pond/Coleman State Park: towers silhouetted for over 1 mile against skyline because of ridgetop location. Testimony suggests burial of the line as the most effective mitigation in this area. (SPNF 69, Dodson, appx. C, p. 5)

b. TJ Boyle:

- i. Coleman State Park Entrance: “Found that impacts to this resource are unreasonable because the route chosen for the corridor causes the Project to be prominently visible on top of a ridge in a natural area with no transmission corridor. The corridor alignment will result in the Project being sky-lined from the park. Alternate corridor alignments must be investigated.”
- ii. Diamond Pond Road: Found unreasonable effects because of number of towers viewed in close proximity to the road, and the positioning of the project directly adjacent to Coleman State Park. The witness suggested extending burial of the line from the current location of Transition Station 4.
- iii. Little Diamond Pond: Found the mitigation to be insufficient or absent. The skyline effect, and the towers’ prominence on top of a ridge in a new corridor, necessitates the project being redesigned to avoid visibility.

(CFP 138 TJ Boyle PFT, 12/30/16, Table 21, pp. 99-109, 115-119)

117. In addition to having unreasonable adverse effects on individual resources, the cumulative effect is also adverse and unreasonable. As should now be clear the proposed project will have negative impacts on a wide range of resources, even within a relatively small area. The proposed alignment of the project often results in one segment having negative impacts on several resources. This is the case in Stewartstown, where the towers leading from Transition Station 4 over the top of Stewartstown’s Sugar Hill would be visible from: Diamond Pond Road, Coleman State Park, Little and Big Diamond Pond, the Harvey Swell Cultural Landscape, the Cohos Trail, Ride the Wilds ATV trails, and possibly Nathan Pond. All of these adverse and unreasonable impacts result from about **4 miles** of the proposed alignment. This

is a result of siting, and the fact that the Applicants chose a route on top of not just a ridge, but the highest mountain in Stewartstown at nearly 3,000 ft. in elevation. (CS 2, p. 2), (SPNF 69, Dodson, appx. C, p.7)

Cultural Landscapes and Resources

118. Applicants did not minimize or avoid adverse effects to historic sites (Site 301.06), including Bear Rock. Bear Rock is a cultural landmark of demonstrated historical and aesthetic value and interest. *(CS 1, PFT, Petrofsky, Historic, 11.15.16, p.3, lines 14-23) (CS 66, p.2, lines 3-13, p. 4 lines 1-4 and p.8) (App. Ex. 211, Cultural Landscape Report Great North Woods Vol. 1, p. 38, figure 3.29)*
119. Location of Transition Station 4 would result in the physical destruction of the southern slope of Bear Rock, and potentially more. The Applicants have undertaken no analysis or efforts at mitigation that we are aware of though this resource was first brought to their attention several years ago. *(CS 2, pp. 1, 3 historical descriptions, references and photos) (NHDOT permit set, 11.30.16, p.51, location of proposed transition station) (JT Muni 334, lidar image showing location of Bear Rock)*
120. The burial of the project in Hereford, PQ, presented an opportunity for the Applicants to take additional steps to mitigate negative aesthetic impacts in the US, which they failed to take advantage of. (CFP 646) For example, as the line will now be buried on the Canadian side of the border, burial could continue through all of Pittsburg, Clarksville and Stewartstown, eliminating four transition stations if the recommended EPA route were followed. *(App. 224a)*

121. The Applicants have chosen their route based on convenience, not accepted siting practices, with which it is at odds. *(CFP 138 TJ Boyle PFT, 12/30/16, pp.146-147 “Corridor Configuration Alternatives” and “New Corridor Alignment”)*

Natural Resources

122. The Applicants have failed to fully document wetlands along the route. BMP measures are meaningless if the wetlands have not been fully identified. *(JT Muni 333 highlights flood-prone areas and wetlands overlooked by Applicants despite efforts to alert them. Overlays Applicants’ assessment of wetlands with the actual occurrence and extent of wetlands.)*

123. The Applicants did not make use of best practicable alternatives to minimize or avoid adverse effects on water quality in its route selection. EPA has determined that Hybrid Alternative 7 in Appendix J of the DOE EIS is preferable to the project as proposed, and that it is practicable. (App. 224a, App. 205, Volume II, Appendix J) This hybrid route would also have avoided the bulk of the adverse impacts to aesthetics, and public safety, that this intervenor has outlined. Notably, alleged property tax benefits would actually increase. Failure to make use of this practicable alternative is unreasonable. *(Site 301.14.a-e. The committee shall consider the determinations of State and Federal agencies (including EPA))* (App. 224a; App. 205, Volume II, Appendix J)

**VIII. LEGAL ISSUES, PROPERTY RIGHTS, R.O.W. SURVEYS:
NORTHERN PASS APPLICATION REQUIREMENTS NOT SATISFIED**

124. The Applicants have not provided information required under SEC rule Site 301.03 regarding proof of the legal right to construct the transmission lines within municipal highways. Specifically, Applicants have failed to provide sufficient evidence that the roads they are proposing to install the UGTL in are public highways or the width of public easements that may exist. (CS#67, Nix PFT, 12/30/16; page 3, lines 21-28, p. 4, lines 5-27)
125. Applicants have failed to file right of way survey plans that meet the requirements of the N.H. Surveyor's Board of Licensure or the NHDOT General Conditions Number 4. (Day 49, PM, page 12, lines 6-15; CFP EX# 493)
126. Applicants have failed to satisfy the requirements of SEC rule Site 301.03(c)(3), Contents of Application, requiring the Applicant to provide a map showing property lines with respect to the site. The lines of public roads are property lines. (CS#67, Nix PFT 12/30/16; page 5, lines 1-5)
127. Applicants failed to verify and locate the edges of the state and local right-of-way. (Day 49, PM, page 45, lines 20-24; page 46, lines 1-17; App EX #130)
128. Applicants failed to satisfy the requirements of SEC rule Site 301.03(c)(3), Contents of Application, requiring the Applicant to provide a map showing improvements on abutting property within 100' of the site. Applicants' surveyors failed to locate, identify and map a cemetery that directly abuts the road right of way. (Day 49, PM, page 34, lines 19-24; page 35, lines 1-9, page 36, lines 1-8)

129. Applicants do not meet the requirements of SEC Rule Site 301.16 (f), Criteria Relative to Public Interest; Private Property. Applicants' proposed drilling will encroach onto abutting private property. (Day 49, PM, page 72, lines 21-24; page 73, lines 1-16)

IX. ESSENTIAL TOWN ROAD PERMITS HAVE NOT BEEN OBTAINED

130. SEC Rules Site 301.03(c)(6) states that an Applicant must provide "evidence" that they have "a current right, an option, or other legal basis [to] construct, operate and maintain the facility on, over, or under the site, in the form of: a. Ownership, ground lease, easement, or other contractual right or interest; [or] b. A license, permit, easement, or other permission from a federal state or local government agency...."

131. Here the Applicants claim that they are using RSA 231:160 as the basis for their claim of right to place their facility under the town roads of Clarksville and Stewartstown. RSA 231:160 states:

"Telegraph, television, telephone, electric light and electric power poles and structures and underground conduits and cables, with their respective attachments and appurtenances may be erected, installed and maintained in any public highways and the necessary and proper wires and cables may be supported on such poles and structures or carried across or placed under any such highway by any person, co-partnership or corporation as provided in this subdivision and not otherwise." (Emphasis added.)

132. Accepting for the moment that RSA 231:160 may permit use of public highways for the placement of above ground and below ground electric lines, it also states that the provisions of its subdivision must be followed by any person or corporation proposing such use and it

specifically provides that those following provision are mandatory using the phrase “as provided in this subdivision and not otherwise.”

133. The very next statute in the subdivision--RSA 231:161--spells out that a permit or license for such use of town maintained roads must be obtained from the town selectmen. There are no other options permitted when it comes to town roads.

134. Notwithstanding the provisions of RSA 231:160 and 231:161, the Applicants have asserted an erroneous claim that the State Supreme Court has interpreted the authority of the SEC under RSA 162-H as giving it preemptive authority to license the use of town roads for electric utility lines. They base this claim on two cases: Public Service Company of New Hampshire v. Town of Hampton, 120 NH 68 (1980) (hereafter “PSNH v. Hampton”); and Town of Rye v. Public Service Company of New Hampshire, 130 N.H. 365 (N.H. 1988) (hereafter Rye v. PSNH.”)

135. Examination of those two cases makes it abundantly clear that the Applicants have intentionally misconstrued those cases and tried to stretch them to the point of erasing the plain meaning of RSA 231:160 that the provisions of its subdivision must be used “and not otherwise.”

136. The 1980 case of PSNH v. Hampton is simply not applicable. It dealt with only one issue: whether a town could enforce a local, municipal regulation requiring PSNH to put proposed transmission lines underground to eviscerate its state approved permits to build above ground utility lines for the Seabrook nuclear power plant through Hampton. The local Hampton ordinance at issue was enacted after PSNH had obtained its permits to erect the

lines above ground in Hampton from various federal and state permitting authorities, including the SEC acting under RSA 162-F (predecessor to RSA 162-H). The Court held that the local ordinance was pre-empted by RSA 162-F and that the town ordinance could not be used to override a final siting decision of the SEC. That case, however, did not deal at all with RSA 231:160 and its following subdivision. The RSA 231:160 statutory mandate for utility use of roads was not even mentioned in PSNH v. Hampton. Nowhere was the use of town maintained roads mentioned in that case. Its holding and dicta cannot be stretched beyond the facts of the case. It cannot be expanded to magically alter the plain meaning of the statutory scheme of RSA 231:160 et seq. which the Applicants claim they are using in their present application to try to insert their project into the town roads of the North Country.

137. The Rye v. PSNH case, also cited by the Applicants, was decided by the NH Supreme Court eight years after the PSNH v. Hampton case. In the Rye case, PSNH followed the mandate of RSA 231:160 and its subdivision by filing an application with the municipality to occupy the local road right of way; the very application that NPT (Eversource being successor to PSNH) is now arguing is not necessary. Notwithstanding, PSNH having obtained state and federal approvals for Seabrook, PSNH sought and obtained a license from the town of Rye for siting Seabrook warning sirens on electric poles in town-maintained roads pursuant to RSA 231:161, 1(a). In other words, PSNH strictly followed the procedure mandated by the legislature under RSA 231:161. It was the town's subsequent attempt to revoke that license which the NH Supreme Court dealt with in the Rye case. Nowhere did that case suggest or imply that RSA 162-H had altered or amended the provisions of RSA 231:160 and 231:161. Nowhere did that case suggest that the SEC had somehow been given preemptive authority over town road

licensing procedures which the state had exclusively granted to towns in the first place under the provisions of the 231:160 subdivision “and not otherwise.”

138. Indeed, the provisions of SEC Site 301.03(c)(6) make it clear that a “permit” or “license” issued by a “local government authority” may be required for an Applicant under RSA 162-H to show that it has a “right” or “other legal basis” to construct, operate and maintain its facility “on, over or under” a chosen site. The Applicants cannot now take a position that is contrary to an SEC rule that specifies “local government authority” as one of the authorities from which an applicant may be required to obtain permits and licenses.

139. Accordingly, the Applicants cannot proceed with their project. Their application is fatally defective without having obtained (or even applied for) town licenses or permits to use approximately five miles of town roads in Clarksville and Stewartstown. The Applicants cannot demonstrate that they have obtained necessary local permits to build their project through the towns of Northern Coos County. The application must therefore be dismissed as incomplete or denied as insufficient.

140. Several of the CS Group I North intervenors also have property rights which they may wish to assert against the Applicants if they are granted licenses or permits to use the roads in Clarksville and Stewartstown. As noted in the testimony of the intervenors (CS Ex. 1 and CS Ex. 12) there will likely be disputes as to the location of the rights of way on these town roads in Clarksville and Stewartstown. Those rights can only be resolved in a forum that has jurisdiction over such property disputes, i.e. the superior court. See RSA 498:5-a. Generally speaking all parties to a property dispute where title is involved or where the value in dispute exceeds \$1500 are entitled to a jury trial. This is a mandate made sacred in Article 20 of the

NH Bill of Rights. The SEC has no jurisdiction over such disputes and it is submitted that it should take no action that results in the SEC infringing on those property rights.

141. Other private property rights are also implicated by the Applicants' refusal to obtain a license mandated by the legislature. For instance, and not by way of limitation, if an abutting landowner wants to defend his shade and ornamental trees in a right of way from being cut or pruned, a utility line licensee is required to give the abutter notice and to follow the dispute resolution and hearing procedures detailed under the provisions of RSA 231:172. That statute is part of the subdivision of RSA 231:160 and town selectmen are required to resolve such disputes if the parties cannot do so. Do the Applicants seriously expect the SEC or the DOT to take over, without jurisdiction, the role of the selectmen in resolving tree cutting and pruning disputes that may arise in the course of the Applicants' using heavy equipment on, and digging up, miles of local country roads? We submit that this would be both unwise and unlawful.

X. CONCLUSION

142. For the foregoing reasons, it is submitted that the Applicants' proposed site and facility, if built and operated as planned, would cause irreparable damage to the North Country in Pittsburg, Clarksville and Stewartstown. It is respectfully submitted that the Application must be denied for failure to meet the criteria required by RSA 162-H:16:

- First, the substantial road closures required and the predictable damage arising from conductor heat dissipation in dirt roads will have an unreasonable adverse effect on public health and safety and cause undue interference with orderly development of the region.

- Second, the siting of four massive transition stations in the northern segment of the project is completely unnecessary. Instead of bringing the project above ground in Pittsburg from an underground siting across the border in Canada, the project should remain underground through our three towns. It should be brought entirely under the shoulders of Route 3 south, instead of above, below, above, below and back above ground in Pittsburg, Clarksville and Stewartstown in an easterly direction. Transition Station 4 on top of Bear Rock in Stewartstown is a totally unacceptable location requiring blasting and removal of massive quantities of rock and doing untold damage to the underground water flow in that area. Transition Station 4 must be moved to the east on the other side of Coleman State Park—hopefully over the crest of Sugar Hill. Elimination of these transition stations and over 70 transmission structures is the only acceptable outcome if orderly development of the region is to be respected.
- Third, the Applicants’ proposal will have an unreasonable adverse effect on aesthetics, historic sites and the natural environment of Pittsburg, Clarksville and Stewartstown, including natural resources and cultural landscapes. The erection of 8 miles of transmission towers (over 70 structures) in a hodge podge of lattice towers and monopoles many of which are over 100 feet high in a clear-cut corridor is totally unreasonable given the obvious alternative of undergrounding in Route 3. Moreover, The Applicants have not met their burden of proof that there will be no unreasonable adverse effects to aesthetics. The application as currently proposed must be DENIED on this ground alone. Added to that, the Applicants have not met their burden of proof that wetlands effects will not be

unreasonable, because the Applicants have failed to accurately identify wetlands, even after good faith efforts to help it do so.

- Fourth, the Applicants have failed to present the SEC with legally required documents establishing their control over and right to use the roads of Pittsburg, Clarksville and Stewartstown without trespassing on private property. The Applicants have simply ignored critical requirements of Site 301.03 and Site 301.16.
- Finally, the Applicants have intentionally refused to seek or obtain municipal permits to use the town roads of Clarksville and Stewartstown for undergrounding their project. Having intentionally declined to follow state law under RSA 231:160 et seq., the Applicants' project cannot be built due to lack of site control., and their Application must be denied.

Respectfully submitted,

**Bradley J. Thompson,
Spokesperson, CS Group 1 North
The Abutters and Non-Abutters of
Pittsburg, Clarksville and Stewartstown**

Dated January 11, 2018

I certify that this document has been served on all parties to this proceeding.

Bradley J. Thompson